

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CRIMINAL PETITION No.13901 of 2014

ORDER:

In this petition filed under Section 482 Cr.P.C, the petitioner/A.3 seeks quashment of the proceedings in STC No.230 of 2014 on the file of Judicial First Class Magistrate, Suryapet.

2) A.1 is the Managing Director and C.E.O of Photon Energy Systems Limited and the owner of Innova vehicle bearing No.AP 09 BT 8289. He is the own brother of N. Uttam Kumar Reddy, Ex-MLA (A.2 in FIR No.152 of 2014 of Suryapet Town P.S.) who was the contesting candidate of Huzurnagar Assembly Constituency during relevant period of offence. Whereas the petitioner/A.3 is the driver of the said vehicle. Prosecution case is that on 27.04.2014, A.1 along with A.3 proceeded from Hyderabad to Kodad and Huzurnagar areas for election campaigning. After completion of campaigning and casting vote on 30.04.2014 at about 10:00a.m at Government Boys High School, Kodad left from Kodad to Hyderabad in his own car bearing No.AP 09 CJ 0018 and instructed his driver (A.3) to collect the amount of Rs.2,00,000/- from LW.11 as an advance payment towards supplying of Solar Power Park and accordingly A.3 took crime vehicle from Kodad and collected the said amount of Rs.2,00,000/- from LW.11 at Kodad and proceeded to Hyderabad. Meanwhile on reaching Suryapet Town, A.3 noticed the smoke coming out of the bonnet. He

stopped the vehicle in front of IOC petrol bunk and when he opened the bonnet, he noticed flames erupted from the engine. In his anxiety he tried to extinguish flames with the cash bag held in his hand and cash bag caught fire and cash was partially burnt and he also received burnt injuries on his hand and finally he could extinguish the flames. A.3 parked the vehicle in the JL Motor shed and informed the incident to A.1. The charge sheet reads that A.1 and A.3 did not inform about the incident to local police which creates a strong suspicion about the partially burnt currency notes which were carried on the date of polling. A.1 denies his presence at the crime spot but his presence was otherwise established that also creates doubt. Thus the police observed that the available evidence throws the light that after distributing the money to voters at Huzurnagar, the accused were transporting the balance amount in the Innova car and in the meanwhile it was caught in fire and therefore, both A.1 and A.3 committed the offence. Hence the police laid charge sheet against both of them.

3) It may be noted that N. Uttam Kumar Reddy who was shown as non-charge-sheeted A.2 filed Criminal Petition No.6366 of 2014 and the criminal proceedings in Crime No.152 of 2014 were quashed against him as per the order dated 20.06.2014.

4) Heard both sides.

5) Denying the allegations, the submission of learned counsel for petitioner/A.3 is that A.3 is the driver of A.1 and he is

neither the contestant nor the agent of the contestant i.e, A.2 and he has nothing to do with the alleged offences. The vehicle also does not belong to A.2 and it was registered in the name of the company i.e, Photon Energy Systems Limited to which the petitioner is the driver. The burnt amount was collected from one of the customers namely J. Venkateshwarlu, Mellacheruvu village as an advance for supply of Solar Energy Park and A.3 was proceeding to deposit the same in the office on the instructions of A.1 and further, the vehicle was not found in the Constituency where A.2 was contesting. Above all, the proceedings against A.2 who is the main accused in the FIR were already quashed in CrI.P.No.6366 of 2014 and therefore, the proceedings against A.3 may also be quashed.

6) Per contra, opposing the petition learned Public Prosecutor argued that A.1 is none other than the brother of A.2 and on the date of offence both A.1 and A.3 after making campaign for A.2 and distributing the amounts to voters to lure them were returning to Hyderabad and on the way the vehicle was caught in fire and some of the currency notes also burnt in that process and therefore, a good case was made out against A.1 and A.3 and the quashment of proceedings against A.2 for want of direct evidence has nothing to do with the allegations against A.1 and A.3. He thus prayed to dismiss the petition.

7) In view of the above rival arguments, the point for determination is:

“Whether there are merits in this Criminal Petition to allow?”

8) **POINT**: The charge-sheet reveals that A.1 and A.3 were charge-sheeted for the offence under Section 171-E r/w 511 I.P.C. Admittedly A.1 is the brother of A.2. A.1 is the Managing Director of C.E.O, Photon Energy Systems Limited and the crime vehicle is Innova Car bearing No.AP 09 BT 8289 was registered in the name of the said company. A.3 is the driver under A.1. When A.3 was proceeding to Hyderabad in the said vehicle along with cash on the afternoon of 30.04.2014 smoke came from the bonnet of the car and so he stopped the vehicle in front of the IOC petrol bunk at Suryapet. The police later found that some burnt pieces of the cash inside the car and at bonnet. In this back drop, the contention of the prosecution is that A.1 and A.3 while returning from the campaign distributed currency to voters and they were attempting to distribute to some other voters, in the meanwhile the vehicle and cash caught in fire and hence they were liable for the offence under Section 171-E r/w 511 IPC.

9) It appears, the explanation of A.3 is that on the instructions of A.1 he collected amount of Rs.2,00,000/- from LW.11 as an advance payment towards supply of Solar Power Park and while he was getting the amount to Hyderabad to deposit in the office, in the meanwhile smoke came from the bonnet near Suryapet and while he was checking, the cash bag also partially caught in fire. It is his strong case that he has nothing to do with

the alleged offences and he was neither the agent nor the henchmen of A.2 and the proceedings against A.2 were already quashed. In this context, a perusal of the copy of fire accident observation report of the crime vehicle submitted by the Scientific Officer of A.P.F.S.L, Hyderabad reveals that the said Officer noticed the burnt currency pieces near the Air Filter i.e, in the bonnet. It creates doubt as to how the currency pieces would be found in the bonnet portion. If this is correct, the A.3 and also A.1 owe an explanation as to how the currency notes could reach inside the bonnet. Therefore, I find there is some valid *prima facie* accusation against A.3. Merely because proceedings against A.2 were quashed for his absence at the scene of offence and the car being not owned by him, that cannot be a ground to automatically quash the proceedings against petitioner/A.3 also. Hence, at this stage it cannot be said that continuation of proceedings will be abuse of process of law.

10) In the result, this Criminal Petition is dismissed.

As a sequel, Miscellaneous Petitions pending, if any, shall stand closed.

U.DURGA PRASAD RAO, J

Date: 29.01.2015

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